



Jersey Central
Power & Light Company
300 Madison Avenue
P.O. Box 1911
Morristown, NJ 07962-1911
(201) 455-8200

May 16, 1996

Mr. Tim Peterson
Federal Communications Commission
Common Carrier Bureau
1919 M Street N.W. Room 500
Washington, D.C. 20554

Re: FCC Proposed Rulemaking on Pole Attachment Access Requirements

Dear Mr. Peterson:

Jersey Central Power & Light Company would like to submit the following comments pursuant to the Federal Communication Commission's Notice of Proposed Rule Making dealing with pole attachment access requirements.

(1) Nondiscriminatory Access

Access to an electric utility's poles, ducts, conduits or rights-of-way will be granted to any telecommunications carrier or cable television operator that can furnish proof of having obtained the following: all necessary consents, approvals, and franchises as required by law, from Federal, State, County, and/or Municipal authorities, and from owners of land, to construct and maintain its facilities within or along public streets, highways, and other thoroughfares, and at the location of the electric company's poles which it desires to use; and to provide services in the locality to the extent of its actual operations. Also, the attachee must comply with basic terms of indemnification, as well as the requirement to furnish bond (until credit has been established), that now prevail in third party attachment agreements. Any interested party that is in compliance with these criteria will be granted nondiscriminatory access, assuming that there is sufficient capacity available on the pole.

(2) Denial of Access

Safety issues will certainly provide legitimate reasons for denying access to a pole. These issues include denial of attachments that would result in violation of the National Electrical Safety Code (NESC), work practice safety rules regarding clearances and climbing space, etc. Also, denial of access could result from a limitation on changing out poles for increased height to accommodate additional attachments. Pole height can only be increased to a certain point, beyond which existing bucket trucks will no longer be able to reach the top of the pole. The proposed rental formula does not provide sufficient financial incentive derived from future pole attachments to prompt electric utilities to replace existing bucket trucks with equipment that will enable them to work on their facilities at a higher elevation.

(3) Insufficient Capacity

Regulations are not needed to define a "minimum threat to reliability" which would become the threshold for denial of access to poles, ducts, conduits, etc. Basically, any additional attachment that would cause the transverse and/or vertical pole loading to exceed the overload capacity factor specified in the NESC, would be sufficient reason to deny access to a pole. Another reason for denial of access would be insufficient space on a pole, which would result in any additional pole attachment violating the clearance between cables or clearance above ground, as specified in the NESC. Insufficient capacity is more readily defined for ducts and conduit; if all the conduits are occupied, then there is no available conduit space to rent or lease. Also, if a utility has an established practice of reserving one conduit or duct for emergency purposes, then it should not have to be made available to telecommunications carriers or CATV operators.

(4) Notice Regarding Modification

The manner in which notice of modification of poles, ducts, conduit, and rights-of-way is made to other entities with attachments, should be established to ensure consistency. It is recommended that written notification (either by mail, E-mail, or Fax) be required. However, the timing of such notice will vary based upon the reason for the modification. Time constraints may be imposed upon the pole owner due to the need for service to a new customer, pole relocation ordered by the Department of Transportation, etc., all of which will involve different lead times. Therefore, to establish a fixed or minimum time period for notice regarding modification would impose an undue burden, and in many cases result in noncompliance with such a provision.

(5) Allocation of Costs Offset by Revenue Increases

The proposal to have any entity that adds to or modifies its existing attachment bear a proportionate share of the costs is a fair and reasonable requirement. To have this payment offset by the potential increase in revenue to the owner, will provide a significant disincentive for the owner to undertake the modification in the first place. The increase in revenue will be nominal in comparison to the cost of changing out a pole, modifying a duct bank, or renegotiating rights-of-way. Therefore, the offset resulting from a potential revenue increase should not be applied against the proportionate share of the modification cost.

Thank you for this opportunity to comment on the proposed rulemaking.

Very truly yours,


Frank J. Mercadante

cc: J. A. Baka
S. J. Beard
K. J. Oexle
E. A. Stiles
H. E. Walsh